

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

GRETCHEN AND DEVON MILLER,	)	
	)	
Plaintiffs,	)	
	)	Civil Action Case No.18-567
v.	)	
	)	
JAYCO, INC.,	)	
	)	
APPLE VALLEY CAMPING, LLC,	)	
	)	
ABC INSURANCE COMPANY,	)	<b><u>COMPLAINT</u></b>
	)	
Defendants.	)	

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**PRELIMINARY STATEMENT**

1. This is Magnuson-Moss Warranty Act action under 15 U.S.C. §2301, as well as an action for violations of state laws arising under the same series of transactions. In June 2017, the Plaintiffs, Gretchen and Devon Miller, bought a 2018 Jayco Northpoint 377RLBH RV (the “RV”) from Defendant, Apple Valley Camping, LLC. Defendant Jayco, Inc. manufactured the RV. Defendants made certain express and implied warranties in the sale of the RV, which were breached when the defective RV failed to operate properly and caused serious problems for the Plaintiff. This lawsuit seeks redress under federal and state law for the damages caused by the Defendants’ breach and suffered by the Plaintiff.

**JURISDICTION & VENUE**

2. Plaintiff brings this action under the Magnuson-Moss Warranty Act enumerated in 15 U.S.C. §2301, and under the Wisconsin Uniform Commercial Code and Lemon Laws to recover damages for losses related to the defective RV.

3. This Court has jurisdiction under 15 U.S.C. §2310(d) because the amount in controversy exceeds \$50,000.00.
4. This Court has supplemental jurisdiction over the related state law claims under 28 U.S.C. §1367(a).
5. Venue is proper in the Eastern District of Wisconsin pursuant to 28 U.S.C. §1391 because the events giving rise to this cause of action all occurred within this District.

### **PARTIES**

6. Plaintiffs, Gretchen and Devon Miller, are natural persons who are citizens of the United States and residents of Milwaukee County, State of Wisconsin.
7. Defendant Apple Valley Camping, LLC (“Apple Valley”) is a Domestic Limited Liability Company, with principal offices located at 5200 Greenville Drive, Appleton, Wisconsin, 54913.
8. Defendant Jayco Inc. (“Jayco”) is a foreign Corporation with principal offices located at 903 S. Main Street, Middlebury, Indiana, 46540.
9. ABC Insurance Company, an unknown insurance company at this time, is a defendant to this action as an indemnitor and insurer to the Apple Valley and/or Jayco.

### **FACTUAL BACKGROUND**

10. That in June 2017, Plaintiffs wished to purchase an RV for recreational use for their family, and informed Apple Valley of their need.
11. That Plaintiffs relied on Apple Valley’s skill and judgment to select the RV.
12. That Plaintiffs relied on Apple Valley, establishing a common basis of understanding for interpreting their expressions and other conduct.

13. That on or about June 9, 2017, Plaintiffs purchased a new 2018 Jayco Northpoint 377RLBH RV, serial number 1UJCJOBV2J1LL0138 (the “RV”), from Apple Valley for \$61,448.10.
14. That upon information and belief, the RV was manufactured by Jayco.
15. That prior to sale, Defendants warranted and represented to Plaintiffs that the RV was fit for regular recreational use.
16. That problems with the RV began apparent to Plaintiffs within days of completing purchase of the RV, including but not limited to:
- a. leveling system malfunctions;
  - b. defective back up camera;
  - c. broken awning;
  - d. leaking water;
  - e. loose sharp metal debris throughout RV;
  - f. defective glass fireplace cover;
  - g. broken refrigerator;
  - h. various loose trim including around bathroom, sink, and bathroom mirror;
  - i. exterior paint rubbing off;
  - j. defective touch control screen panel;
  - k. broken roof in outdoor kitchen;
  - l. defective oven ignition;
  - m. defective bedroom air conditioning;
  - n. defective fireplace function; and
  - o. a defective window shade.

17. That problems with the RV persisted the remainder of 2017, causing consequential damages reflected in Exhibit 1 totaling \$6,241.00. Plaintiffs could not rely on the RV.
18. That thereafter, Plaintiffs brought the RV to Apple Valley for repairs, and it remains in possession of the RV.

### **COUNT 1**

#### **BREACH OF WARRANTY IN VIOLATION OF 15 U.S.C. §2310**

##### ***A. BREACH OF IMPLIED WARRANTY***

19. Plaintiff hereby realleges and reasserts above paragraphs as if fully set forth herein.
20. Defendants supplied Plaintiffs with a 2018 Jayco Northpoint 377RLBH RV that was defective or that malfunctioned.
21. Apple Valley at the time of sale had reason to know the particular purpose for which the Plaintiffs required the RV. The Plaintiffs relied on Apple Valley's skill or judgment to select the RV, giving rise to an implied warranty that the RV was fit for such purpose.
22. Additionally, the sequence of previous conduct between the parties established a common basis of understanding for interpreting their expressions and other conduct, giving rise to an implied warranty that the RV fit for such purpose.
23. Plaintiffs afforded Defendants a reasonable opportunity to repair the defect or malfunction.
24. Defendant failed to repair the RV at no charge to Plaintiff within a reasonable time.
25. Plaintiff suffered damages in excess of \$50,000, in an amount to be determined at trial.

##### ***B. BREACH OF EXPRESS WARRANTY***

26. Plaintiff hereby realleges and reasserts above paragraphs as if fully set forth herein.
27. Defendants supplied Plaintiff with an RV that was defective or that malfunctioned.
28. The defect or malfunction was covered by the warranty.

29. Plaintiff afforded Defendants a reasonable opportunity to repair the defect or malfunction.
30. Defendant failed to repair the RV at no charge to Plaintiff within a reasonable time.
31. Plaintiff suffered damages in excess of \$50,000, in an amount to be determined at trial.

## **COUNT 2**

### **STATE LAW CLAIM UNDER UNIFORM COMMERCIAL CODE**

32. Plaintiffs hereby reallege and reasserts above paragraphs as if fully set forth herein.
33. Defendants made affirmations of fact to the Plaintiffs that the RV was reliable, which became part of the basis of the bargain and created an express warranty that the RV would conform to the affirmation.
34. That in truth and in fact, the RV was not reliable, as alleged above.
35. The fact that the RV was not reliable constitutes a breach of the contract under the Uniform Commercial Code.
36. As a direct and proximate cause of the breach of the contract by the Defendants, the Plaintiffs incurred substantial monetary damages.

## **COUNT 3**

### **BREACH OF CONTRACT**

37. Plaintiffs hereby reallege and reasserts above paragraphs as if fully set forth herein.
38. As a term and condition of the sale, and as explained above, Defendants warranted and represented that the RV was fit for regular recreational use.
39. That in truth and in fact, there were significant defects in the RV, as alleged above.
40. The fact that the RV contained these defects constitutes a breach of the contract and the warranty provided by the Defendants.

41. As a direct and proximate cause of the breach of the contract by the Defendants, the Plaintiff incurred substantial monetary damages.

**PRAYER FOR RELIEF**

Plaintiff demands the following relief:

- a. Damages in the amount to be determined at trial, but not less than \$67,689.10;
- b. Reasonable costs and attorney's fees;
- c. A jury to try this case;
- d. Any other relief the Court deems just and proper.

Dated this 11th day of April, 2018.

**/s/ electronically signed by:**  
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